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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/640,858	08/13/2003	John C. Pederson	E30.2-11261	9187

490 7590 01/13/2006

VIDAS, ARRETT & STEINKRAUS, P.A.  
6109 BLUE CIRCLE DRIVE  
SUITE 2000  
MINNETONKA, MN 55343-9185

EXAMINER
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CHOI, JACOB Y

ART UNIT	PAPER NUMBER
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2875

DATE MAILED: 01/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/640,858

Applicant(s)

PEDERSON, JOHN C.

Examiner

Jacob Y. Choi

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 33-61 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 33-61 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement filed 11/8/2004 & 10/27/2003 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claim 33, 40, & 59 provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/397,693. Although the conflicting claims are not identical, they are

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not patentably distinct from each other because wordings such as an elongated frame having a base, a light support having sides may be commonly comprehended as a light housing.

Application No. 10/640,858 claim #	Application No. 10/397,693 claim #
33, 40, & 59	1

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

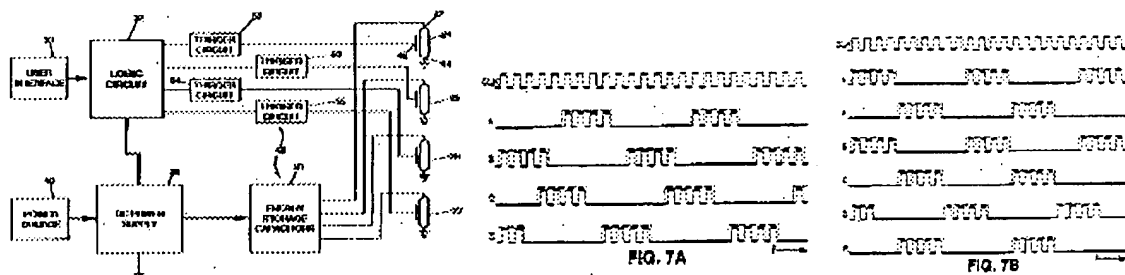
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim **33-39 & 59-61** are rejected under 35 U.S.C. 103(a) as being unpatentable over Suckow et al. (USPN 6,183,100) in view of Jozwik (USPN 5,644,291).

Regarding claims 33 & 59, Suckow et al. discloses a light support (e.g., 10) having a front side (e.g., 33), a circularly placed light emitting diodes arranged about and attached to the front side, and a controller (e.g., 8A & 8B) in electric communication with the light emitting diodes, the controller constructed and arranged to activate the light emitting diodes thereby producing at least two different visually distinct warning light signals, the controller further constructed and arranged to produce the at least two different visually distinct warning light signals simultaneously (e.g., column 7-8, lines 60-

20), the light emitting diodes receiving power from a power source wherein the light support is moveable with respect to the motorized vehicle (e.g., claims 14-18).

Jozwik teaches a control circuit that generating emergency signals where, e.g., claim 11, *“modulating each of the first and second light sources to broadcast light therefrom in a periodic visual pattern that transitions between at least relatively low and high states of brightness and synchronizing the periodic visual pattern of the first and second light sources so that each transition of brightness of the light sources occurs between two sequential transitions of the light from the other light source,”* light sources being arranged in a single row (e.g., Figure 1) ”



It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify control circuit of Suckow et al. with distinct control circuit(s) of Jozwik to create first and second illumination pattern to be different, where the modification provides more visually distinct warning and diverse lighting pattern to create desired/more effective visual warning effect.

Also, It would have been obvious matter of design variation to change the shape of the support / base for the light emitting diodes, since such a modification would have involve a mere change in the shape of the component. A change in shape is generally recognized as being within the level of ordinary skill in the art.

Note: Claims in a pending application should be given their broadest reasonable interpretation. *In re Pearson*, 181 USPQ 641 (CCPA 1874).

Regarding claim 34, Suckow et al. in view of Jozwik teaches claimed invention, explained above. In addition, Suckow et al. discloses a gyrator (e.g., Figures 9 & 10) attached to the light support wherein the gyrator may move the warning signal light to provide rotational or oscillatory motion.

Regarding claim 35, Suckow et al. in view of Jozwik teaches claimed invention, explained above. In addition, Suckow et al. discloses a gyrator the light support further comprising a back side (e.g., 34) having a second visible exterior surface having a single row of light emitting diodes arranged about and attached to the second visible exterior surface (e.g., Figure 2A).

Regarding claim 36, Suckow et al. in view of Jozwik teaches claimed invention, explained above. In addition, Suckow et al. discloses a gyrator the controller controls the light emitting diodes on the front side, for the provision of different warning light signals on the front side and the backside.

Regarding claim 37, Suckow et al. in view of Jozwik teaches claimed invention, explained above. In addition, Suckow et al. a gyrator the warning light signal is in the form of a directional indicator.

Regarding claim 38, Suckow et al. in view of Jozwik teaches claimed invention, explained above. In addition, Suckow et al. and Jozwik discloses the motorized vehicle is a utility vehicle (e.g., 20).

Regarding claim 39 Suckow et al. in view of Jozwik teaches claimed invention, explained above. In addition, Suckow et al. and Jozwik discloses the motorized vehicle is an emergency vehicle (e.g., 20).

Regarding claim 60, Suckow et al. in view of Jozwik teaches claimed invention, explained above. In addition, Suckow et al. discloses a motor (e.g., 93), the motor being engaged to the light support, the motor being constructed and arranged to move the light support to provide rotational or oscillatory motion.

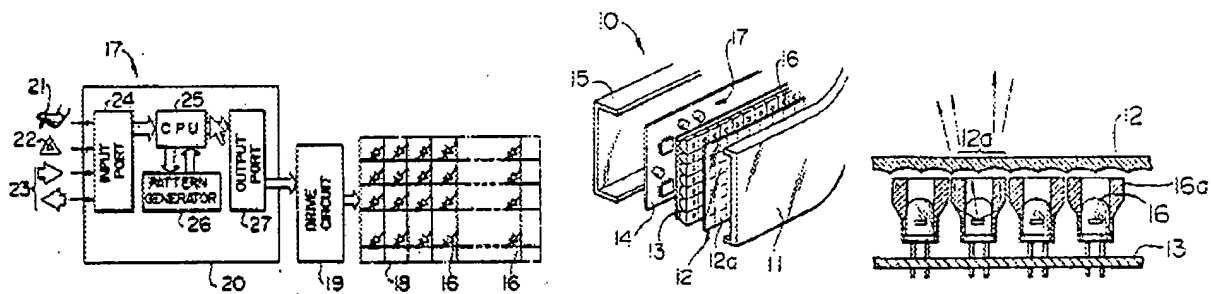
Regarding claim 61, Suckow et al. in view of Jozwik teaches claimed invention, explained above. In addition, Suckow et al. discloses at least one gear (e.g., Figure 10), the at least one gear being engaged to the motor and to the light support.

5. Claims **33, 37-39 & 40-59** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kouchi et al. (USPN 4,868,719) in view of Jozwik (USPN 5,644,291).

Regarding claims 33, 40, & 59, Kouchi et al. discloses an elongate frame (10) having a base (15), a plurality of light emitting diode light sources (16) engaged to the frame (column 2-3 lines 65-5; "*a rear cover 15 cooperates with the front cover 11 to form means for holding the inner lens element 12 and the first and second printed circuit boards 13 & 14, in a united fashion ... the rear and front covers 15 and 11 cooperate with each other to form a housing in which the components 12, 13 and 14 are accommodated*"), the light emitting diode light sources being arranged in a multiple rows, the light emitting diode light sources receiving power from a power source, a reflector (Figure 3) positioned adjacent the light emitting diode light sources, and a lens

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(12) traversing the frame proximate to the light emitting diode light sources, and a controller (19 & 20) in communication with the light emitting diode light sources (16), the controller constructed and arranged to activate the light emitting diode light sources producing at least two different types of visually distinct warning light signals ("STOP", "HAZARD", "HELP", "LEFT" & "RIGHT" or matrix that is able to display many different patterns by CPU), the controller further constructed and arranged to produce the at least two different types of visually distinct warning light signals in at least one combination (Figure 7 & 8).

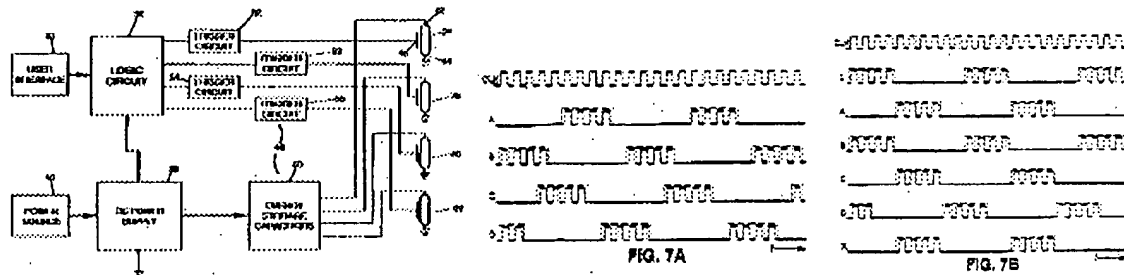


Kouchi et al. discloses the claimed invention except for the one of the visually distinct warning light signals comprising the repetitive illumination of one or more light emitting diodes over a period of time to form a first illumination pattern and second illumination pattern where the first illumination pattern and second illumination pattern are different and light emitting diode light sources being arranged in a single row.

Jozwik teaches a control circuit that generating emergency signals where, e.g., claim 11, *"modulating each of the first and second light sources to broadcast light therefrom in a periodic visual pattern that transitions between at least relatively low and high states of brightness and synchronizing the periodic visual pattern of the first and second light sources so that each transition of brightness of the light sources occurs*



between two sequential transitions of the light from the other light source," light sources being arranged in a single row (e.g., Figure 1) "



It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify control circuit of Kouchi et al. with distinct control circuit(s) of Jozwik to create first and second illumination pattern to be different, where the modification provides more visually distinct warning and diverse lighting pattern to create desired/more effective visual warning effect. In addition, it has been held that omission of an element (omit multiple rows of Kouchi et al. to be a single row) and its function in a combination where the remaining elements perform the same functions as before involves only routine skill in the art. *In re Karlson*, 136 USPQ 184.

Regarding claim 37, Kouchi et al. in view of Jozwik discloses the claimed invention. In addition, Kouchi et al. discloses the warning light signal is in the form of a directional indicator (turn signal; "LEFT" & "RIGHT").

Regarding claim 38, Kouchi et al. in view of Jozwik discloses the claimed invention. In addition, Kouchi et al. and Jazwick discloses the motorized vehicle is a utility vehicle (e.g., 20).

Regarding claim 39, Kouchi et al. in view of Jozwik discloses the claimed invention. In addition, Kouchi et al. and Jozwik discloses the motorized vehicle is an emergency vehicle (e.g., 20).

Regarding claims 41-50, Kouchi et al. in view of Jozwik discloses the claimed invention. In addition, Kouchi et al. discloses the at least two (or more) different visually distinct warning light signals are generated in any combination (simultaneously or alternatively) of one or more visually distinct warning light signals (e.g., Figures 7A-7E; e.g., column 4, lines 35-42, columns 5-6, lines 60-20; claim 11).

Regarding claims 51-58, Kouchi et al. in view of Jozwik discloses the claimed invention. In addition, Jozwik discloses the at least two visually distinct warning light signals are generated in an (intermittent, irregular, or regular) (pattern, sequence, or intervals) (e.g., Figures 2-5; e.g., column 4, lines 35-42, columns 5-6, lines 60-20; claim 11).

### ***Response to Amendment***

6. Examiner acknowledges that the applicant has amended claims 33, 40-45 & 59.

### ***Response to Arguments***

7. Applicant's arguments, see page 7, filed, with respect to 10/20/2005 have been fully considered and are persuasive. The claim rejections - 35 USC § 103 of 9/27/2005 has been withdrawn. However, with respect to amended claims 33-61 has been considered but is moot in view of the new ground(s) of rejection.

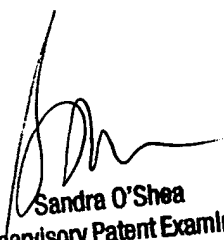
***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacob Y. Choi whose telephone number is (571) 272-2367. The examiner can normally be reached on Monday-Friday (10:00-7:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JC

  
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